Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Damon Connolly, Chair
AB 1264 (Gabriel) – As Amended April 21, 2025

SUBJECT: Pupil nutrition: particularly harmful ultraprocessed food: prohibition

SUMMARY: Requires, on or before July 1, 2026, the Office of Environmental Health Hazard Assessment (OEHHA) to adopt regulations to define particularly harmful ultraprocessed food (particularly harmful UPF). Prohibits, beginning January 1, 2032, a vendor from offering particularly harmful UPFs to a school. Specifically, **this bill**:

1) Defines "particularly harmful ultraprocessed food" or "particularly harmful UPF" as an ultraprocessed food product that is particularly harmful, as determined by regulations adopted by the OEHHA.

2) Requires, on or before July 1, 2026, OEHHA to adopt regulations to define particularly harmful ultraprocessed food that consider all of the following factors:

   a) Whether the substance or group of substances are banned or restricted in other local, state, federal, or international jurisdictions due to concerns about adverse health consequences;

   b) Whether the products include or require a warning label in other local, state, federal, or international jurisdictions due to concerns about adverse health consequences;

   c) Whether, based on reputable peer-reviewed scientific evidence, a substance or group of substances, are linked to health harms or adverse health consequences, including, but not limited to, any of the following:

      (i) Cancer;

      (ii) Cardiovascular disease;

      (iii) Metabolic disease;

      (iv) Developmental or behavioral issues;

      (v) Reproductive harm;

      (vi) Obesity;

      (vii) Type 2 diabetes; or,

      (viii) Other health harms associated with UPF consumption;

   d) Whether, based on reputable, peer-reviewed scientific evidence, a substance or group of substances may be hyperpalatable, or may contribute to food addiction; and,

   e) Whether the food has been modified to be high in fat, sugar, or salt.

3) Requires OEHHA, every two years, to update the definition of particularly harmful UPF to accommodate any relevant advances in scientific knowledge, the development of better agricultural or manufacturing practices, or other changes that require revision of the definition.

4) Requires OEHHA to adopt the regulations for particularly harmful UPF in consultation with the State Department of Public Health (CDPH), the Department of Education, the University of California, and all appropriate state agencies, after providing an opportunity for all interested parties to comment.

5) Defines "ultraprocessed food" or "UPF" as any food or beverage that contains one or more of the following substances:

    a) Substances not available in the United States Food and Drug Administration (FDA) Substances Added to Food database but having any of the following FDA-defined technical effects:

        i) Surface-active agents, as defined in Section 170.3(o)(29) of Title 21 of the Code of Federal Regulations.

        ii) Stabilizers and thickeners, as defined in Section 170.3(o)(28) of Title 21 of the Code of Federal Regulations.

        iii) Propellants, aerating agents, and gases, as defined in Section 170.3(o)(25) of Title 21 of the Code of Federal Regulations.

        iv) Color and coloring adjuncts, as defined in Section 170.3(o)(4) of Title 21 of the Code of Federal Regulations.

        v) Emulsifiers and emulsifier salts, as defined in Section 170.3(o)(8) of Title 21 of the Code of Federal Regulations.

        vi) Flavoring agents and adjuvants, as defined in Section 170.3(o)(12) of Title 21 of the Code of Federal Regulations, excluding spices and other natural seasonings and flavorings as listed in Section 182.10 of Title 21 of the Code of Federal Regulations.

        vii) Flavor enhancers, as defined in Section 170.3(o)(11) of Title 21 of the Code of Federal Regulations, excluding spices and other natural seasonings and flavorings as listed in Section 182.10 of Title 21 of the Code of Federal Regulations.

        viii) Surface-finishing agents, as defined in Section 170.3(o)(30) of Title 21 of the Code of Federal Regulations.

        ix) Non-nutritive sweeteners, as defined in Section 170.3(o)(19) of Title 21 of the Code of Federal Regulations.

    b) Substances available in the FDA Substances Added to Food database that are designated as having any of the FDA-defined technical effects as listed, excluding spices and other natural seasonings and flavorings, as listed in Section 182.10 of Title 21 of the Code of Federal Regulations.

6) Defines "public entity" as the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state.

7) Defines "school" as a high school, middle school, or elementary school, as those terms are defined in Section 49430 of the Education Code, or any public entity that purchases a food product to provide to pupils on campus during the schoolday in an elementary, middle, or high school.

8) Requires, no later than January 1, 2028, a school to begin to phase out particularly harmful UPFs.

9) Requires, beginning January 1, 2032, a vendor from offering particularly harmful UPFs to a school.

10) Requires, on or before July 1, 2027, and on or before July 1 of each year thereafter through July 1, 2023, OEHHA, in consultation with the Department of Education and using information reported pursuant to this bill, to submit to the Legislature a written report containing specified information.

11) Requires, on or before February 1, 2027, and on or before February 1 of each year thereafter through February 1, 2032, any vendor of food or food products to a school to report specified information to OEHHA for each food product sold to a school in the past calendar year, to the extent it is known to the vendor.

12) Prohibits, beginning July 1, 2035, a school district, county superintendent of schools, or charter school maintaining kindergarten or any of grades 1 to 12, inclusive, from offering a nutritionally adequate breakfast or lunch that includes particularly harmful UPFs, as provided, and would prohibit a school operated and maintained by a school district or county office of education from selling food or beverages, except for food items sold as part of a school fundraising event, containing those particularly harmful UPFs, as provided.

13) States the intent of the Legislature to reduce the consumption of UPFs by the children of California, and to encourage schools and school districts to promote and provide healthier options in school meals in advance of the compliance dates provided in this bill.

EXISTING LAW:

1) Prohibits, pursuant to the federal Food, Drug & Cosmetic Act (FD&C Act), the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics. (21 Code of Federal Regulations § 701.3)

2) Establishes the Sherman Food, Drug, and Cosmetic Law (Sherman Law). (Health and Safety Code (HSC) § 109875)

3) Defines "food" as any article, including a component of any article, used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal. (HSC § 109935)

4) Defines "person" as any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within the state, and any representative, agent, or agency of any of the foregoing. (HSC § 109995)

5) Defines "food additive" as any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of the food or otherwise affecting characteristics of the food. This includes any substance or radiation source intended for use in producing, manufacturing, packing, treating, packaging, transporting, or holding any food. (HSC § 109940)

6) Defines "manufacture" as the preparation, compounding, propagation, processing, or fabrication of any food, drug, device, or cosmetic. The term "manufacture" includes repackaging or otherwise changing the container, wrapper, or labeling of any food, drug, device, or cosmetic in furtherance of the distribution of the food, drug, device, or cosmetic. The term "manufacture" does not include repackaging from a bulk container by a retailer at the time of sale to its ultimate consumer. (HSC § 109970)

7) Provides that it is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is adulterated. (HSC § 110620)

8) Provides that a food is adulterated if it bears or contains any poisonous or deleterious substance that may render it injurious to health of man or any other animal that may consume it. The food is not considered adulterated if the substance is a naturally occurring substance and if the quantity of the substance in the food does not render it injurious to health. (HSC § 110545)

9) Establishes the Unfair Competition Law (UCL). (Business and Professions Code § 17200 *et seq*.)

10) Establishes the following provisions under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65):

    a) Prohibits a person, in the course of doing business, from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into land where such chemical passes or probably will pass into any source of drinking water. (HSC § 25249.5)

    b) Prohibits a person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. (HSC § 25249.6)

    c) Requires the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. (HSC § 25249.8)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author,

> "AB 1264 is a first-in-the-nation measure that would extend California's national leadership in food safety and school nutrition by phasing out "particularly harmful" ultra-processed foods (UPFs) from school meals in California by 2032. AB 1264 would task state scientists – working in cooperation with leading experts from the University of California – with identifying "particularly harmful" UPFs based on scientific research linking them to cancer, cardiovascular disease, metabolic disorders, neurological or behavioral issues, and other health harms. AB 1264 is co-authored by a diverse group of legislators from across the political and ideological spectrum, including Assembly Republican Leader James Gallagher (R-East Nicolaus) and Progressive Caucus Chair Alex Lee (D-San Jose).
>
> Our public schools should not be serving students ultra-processed food products filled with chemical additives that can harm their physical and mental health and interfere with their ability to learn. In California, Democrats and Republicans are joining forces to prioritize the health and safety of our children and we are proud to be leading the nation with a bipartisan, science-based approach. California schools are projected to provide over 1 billion meals this school year and this new legislation will ensure that schools are serving our students the healthy, nutritious meals they need and deserve."

Sherman Food, Drug, and Cosmetic Law (Sherman Law): The Sherman law, administered by the CDPH, ensures that food, drugs, and medical devices are safe and not adulterated, misbranded or falsely advertised, and that drugs and medical devices are effective. CDPH analyzes food, drugs, cosmetics, and other consumer products for chemical adulterations. Common analytes include toxic metals, seafood toxins, carcinogens, prescription drug ingredients, food additives, and preservatives.

OEHHA: OEHHA is the lead state agency for the assessment of health risks posed by environmental contaminants. OEHHA's mission is to protect and enhance the health of Californians and our state's environment through scientific evaluations that inform, support and guide regulatory and other actions.

OEHHA implements the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, under which it compiles the state's list of substances that cause cancer or reproductive harm. OEHHA also develops health-protective exposure levels for contaminants in air, water, and soil as guidance for regulatory agencies and the public. These include public health goals for contaminants in drinking water and both cancer potency factors and non-cancer reference exposure levels for the Air Toxics Hot Spots Program.

Other key OEHHA activities include:

- Developing fish advisories for mercury and other contaminants in sport fish from water bodies throughout the state, and making recommendations regarding fishing safety and closures after marine oil spills.

- Collaborating with the CDPH and Department of Toxic Substances Control on the Biomonitoring California program, which measures levels of chemicals found in Californians' bodies.
- Developing a pioneering environmental health screening tool that can be used to put together a more comprehensive picture of the burdens California communities face from environmental pollutants and their vulnerability to health and economic impacts.
- Identifying and analyzing Indicators of Climate Change in California.

OEHHA also provides scientific peer review of pesticide risk assessments; works with the Department of Pesticide Regulation to develop regulations to protect pesticide worker health and safety; trains physicians to recognize pesticide-related illnesses; and works with the California Department of Food and Agriculture to provide health information on pesticide applications aimed at combating invasive species.

Identifying processed foods: the NOVA classification system: Before discussing UPFs, we will first look at how to classify UPFs. The most widely regarded system that classified UPFs is the NOVA classification system. According to the article, "The NOVA Method of Food Classification (Syed S.A.), published in *News Medical Life Sciences*:

"Food processing ensures safety and shelf life by transforming raw components into new products. In the last several decades, this has changed in response to customer expectations for foods that are more delicious and long-lasting, which frequently leads to the addition of artificial or natural components.

Examining the possible detrimental effects of consuming a lot of processed foods on diet quality and general health has become more interesting as a result. Human diets are increasingly including more industrially processed foods, leading to various systems for classifying foods based on processing criteria. Among these, the NOVA system is the most widely used. The NOVA classification—which divides foods into four primary groups according to the extent of processing—was proposed by a team of Brazilian researchers. This categorization does not include a breakdown of the nutrients in the foods.

According to NOVA, food processing refers to the physical, biological, and chemical procedures that take place following the separation of food from its natural state and prior to its consumption or usage in the making of dishes and meals.

NOVA does not account for culinary techniques used in home or restaurant kitchens to prepare food, such as fractioning, cooking, seasoning, and blending different foods or eliminating non-edible components.[3]

The NOVA system classifies foods into four categories: (i) NOVA1 includes unprocessed or minimally processed foods, (ii) NOVA2 comprises culinary ingredients (iii) NOVA3 covers processed foods, and (iv) NOVA4 includes ultra-processed foods. The categories are described below:

> ***Category 1: Unprocessed or minimally processed foods****:* These foods undergo minimal processing, such as removing inedible parts and applying methods like drying, crushing, and pasteurization without adding chemicals like sugar, salt, or oils. The main goal is to extend

the shelf life of unprocessed foods through freezing, drying, or refrigeration while facilitating preparation by altering textures or removing undesirable components.

Group 1 foods include fresh produce, cereals like wheat and rice, legumes like beans and lentils, and dairy products such as milk and yogurt without added sugars. Other examples are meats, fish, eggs, pasta, nuts, spices, and granola made without sugars or oils. Some foods may contain rare additives, like stabilizers in ultra-pasteurized milk, primarily to preserve their integrity.

Overall, minimally processed foods maintain their inherent qualities while improving shelf life and ease of preparation.[3]

Category 2: Processed culinary ingredients*:* The second NOVA category includes processed culinary ingredients derived from Group 1 foods or nature through methods like pressing, refining, and grinding. These ingredients are primarily used in kitchens for cooking, seasoning, and preparing Group 1 meals, allowing for diverse dishes like soups, breads, and desserts.

Group 2 foods include salt, sugar, honey, butter, and vegetable oils, which are rarely consumed on their own. This category also includes items made from two Group 2 components, like salted butter and iodized salt. Some Group 2 products may contain additives, such as preservatives in vinegar or antioxidants in oils, to maintain quality.

Overall, this category comprises essential cooking ingredients that enhance the flavor and preparation of minimally processed foods.

Category 3: Processed foods: The third NOVA group consists of processed foods created by adding sugar, oil, salt, or other Group 2 substances to Group 1 foods. These foods typically feature two or three ingredients. Various preservation and cooking methods are used, including non-alcoholic fermentation for items like bread and cheese, with the primary aim of enhancing the durability and sensory qualities of Group 1 foods.

Examples of Category 3/ Group 3 foods include canned vegetables, fruits, legumes, salted nuts, cured meats, cheeses, and freshly baked breads. Processed foods may contain additives for preservation or to prevent microbial contamination, such as antioxidants in syruped fruits. Alcoholic beverages like beer, cider, and wine, produced from Group 1 foods, also fall under this category.

Category 4: Ultra-processed food and drink products:
Ultra-processed foods and drinks belong to the fourth NOVA category, characterized by industrial formulations with five or more ingredients. These products often include unusual additives not commonly found in culinary preparations alongside sugars, oils, fats, salt, and preservatives.

Ultra-processed foods typically contain little to no Group 1 components, aiming to mimic or mask the sensory qualities of these foods. Examples include non-sugar sweeteners, hydrogenated oils, casein, and whey.

The primary objective of ultra-processing is to create ready-to-eat or drink items, employing industrial techniques like extrusion and molding. These products often feature attractive packaging, aggressive marketing aimed at children, and high palatability.

Examples include mass-produced breads, ice cream, packaged snacks, and artificially sweetened yogurt. Distilled alcoholic beverages from Group 1 foods, such as vodka and whiskey, are also included in this category."

Ultra Processed Food (UPF): There has been a wide variety of research on UPFs throughout the country and throughout the world. Below are a few excerpts from studies/reports/research on UPFs.

Identifying food and beverages that are ultra-processed: According the research article, "a policy approach to identifying food and beverage products that are ultra-processed and high in added salt, sugar and saturated fat in the United States: a cross-sectional analysis of packaged foods" (Popkin, et al), published April 2024 in Lancet Regional Health:

"Research has emerged over the last decade showing convincing evidence from all phases of research—be they a crossover randomized controlled trial to longitudinal cohorts, to animal, metabolic, microbiome and neurological research-to show how consumption of UPFs is detrimental to health. Existing literature was searched related to UPF consumptions, HFSS [high in saturated fat, salt and sugar] consumption (particularly in the Americas), with studies limited to those published from January 1, 2014 to the present day. We found through our literature search that the NOVA classification system is the most widely used literature to identify UPFs, and furthermore some countries now mention UPFs within their dietary guidelines. There is also now one country (Chile) that has written a HFSS definition into law in order to identify unhealthy products for policy intervention. Out of this we determined there is a need for a simple policy-ready definition of UPFs that considers not only the level of processing a product has but also its nutritional components.

A number of countries have now made food processing a major part of their dietary guidelines and alongside this, HFSS foods are increasingly becoming a target for policy intervention. This paper, which focuses on the US and its vast array of packaged food and beverage products, demonstrates how the combination of elements of the NOVA

classification system to identify UPFs, and the now commonly used HFSS criteria to identify less health products, can help ensure that policymakers have both a simple and accurate method for the identification of less healthy food and beverage products.

Over the last decade, concern related to the increased consumption of ultra-processed foods (UPFs) has grown across the globe. UPFs are defined as ready-to-eat industrial products created from food-derived ingredients combined with food additives through various industrial processes and designed to maximize industry profits. Research has emerged over the last decade showing convincing evidence from all phases of research—be they a crossover randomized controlled trial to longitudinal cohorts, to animal, metabolic, microbiome and neurological research - to show how consumption of these UPFs are detrimental to health. Several attributes of UPFs explain their link with ill-health, including poor nutrient profiles (high in free sugars and unhealthy fats and low in protein and fiber), high energy density and hyper-palatability or quasi–addictive properties, and content of biologically harmful compounds.

There is a need for a simple policy-ready definition of UPFs that considers not only the level of processing a product has but also its nutritional components. The aim of this study was therefore to develop a simple approach to support policymakers in the identification of both UPFs and HFSS products that should be targeted for policy intervention."

Study of potential addiction of UPFs: According to the article," Social, clinical, and policy implications of ultra-processed food addiction" (Gearhardt, et al), October 2023, BMJ Publishing Group:

"The scientific understanding of addiction is evolving. Although addiction to certain foods is not included in diagnostic frameworks such as the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), research on this topic has grown rapidly in the past 20 years. Much of this research uses the Yale Food Addiction Scale (YFAS), which was developed to measure food addiction by assessing DSM-5 criteria for substance use disorder in the context of food intake.

Not all foods have addictive potential. The YFAS asks people to report on intake of foods with high levels of refined carbohydrates or added fats, such as sweets and salty snacks. These types of foods are most strongly implicated in the behavioral indicators of addiction, such as excessive intake, loss of control over consumption, intense cravings, and continued use despite negative consequences. Refined carbohydrates or fats evoke similar levels of extracellular dopamine in the brain striatum to those seen with addictive substances such as nicotine and alcohol. Based on these behavioral and biological parallels, foods that deliver high levels of refined carbohydrates or added fats are a strong candidate for an addictive substance.

Ultra-processed foods (UPFs)—industrially produced foods containing ingredients not available in home kitchens—are the main source of refined carbohydrate and added fats in

the modern food supply. While natural or minimally processed foods typically contain either carbohydrates or fat, they rarely contain both. By contrast, many UPFs contain much higher levels of both carbohydrates and fats in more equal proportions. The combination of refined carbohydrates and fats often found in UPFs seems to have a supra-additive effect on brain reward systems, above either macronutrient alone, which may increase the addictive potential of these foods.

The speed at which UPFs deliver carbohydrates and fats to the gut may also be important to their addictive potential. Drugs and routes of administration that affect the brain more quickly have a higher addictive potential. This is the rationale behind substitution therapies and why a cigarette, which rapidly delivers nicotine to the brain, is more addictive than a slow release nicotine transdermal patch. The food matrix is altered in UPFs, which makes them easier and faster to consume, have greater bioavailability, and potentially allows them to affect the brain more rapidly. Thus, the ability of UPFs to rapidly deliver bioavailable rewarding substances may contribute to their increased addictive potential.

It is clear not all foods trigger addictive behaviors, just as not all drugs are addictive. Currently, of the foods available for consumption, UPFs seem to be the best candidate for an addictive substance. While further careful research is needed to determine the exact mechanism by which these foods trigger addictive responses, UPFs high in refined carbohydrates and fats are clearly consumed in addictive patterns and are leading to deleterious health outcomes. Therefore, we will use the term UPF addiction here to reflect those substances most strongly implicated in addictive eating.

The misclassification of addictive substances as non-addictive can delay necessary policy action. Tobacco companies minimized the addictive nature of their products by focusing on users' personal responsibility. However, people find it challenging to reduce intake of addictive substances even when highly motivated, which challenges the personal responsibility narrative used by industry. Appropriately classifying cigarettes as addictive increased the focus on industry culpability and supported litigation, regulatory, and policy efforts that have been effective in reducing tobacco use globally.

If the science supports reclassifying UPFs as addictive substances, it may support the use of similar approaches to address UPF addiction. This would particularly highlight the need for regulatory safeguards to curtail industry practices such as the creation of UPFs that maximize "craveability" by hitting consumers' "bliss point," and the aggressive marketing of such products to children. As past addiction epidemics have shown, multipronged action will be needed to address the factors that allow the spread of potentially addictive UPFs to occur unchecked."

Governor Newsom's Executive Order: On January 3, 2025, Governor Newsom issued Executive Order N-1-25, covering UPFs, school nutrition, and food dyes. Below is an excerpt of that Executive Order:

> "Whereas emerging scientific evidence has linked UPFs to increased health risks, including some cardiovascular condition, certain cancers, diabetes, and other health problems; and
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> Whereas UPFs are generally characterized as industrial formulations of chemically modified substances extracted from foods, along with additives to enhance taste, texture, appearance, and durability, with minimal to no inclusion of whole foods, with the following among common examples that are linked to negative health outcomes: packaged snacks, chips, crackers, cookies, candy, sugary beverages, and highly processed meats like hot dogs and lunch meat; and
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> Whereas experts have estimated that more than 10,000 chemicals are currently authorized for use in the United States as food or color additives or ingredients, while just over 300 food additives are currently authorized for use in the European Union; and
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> Whereas the U.S. Department of Agriculture's (USDA) 2025 Dietary Guidelines Advisory Committee issued a system review in December 2024 assessing available scientific evidence that confirmed the link between consumption of UPFs and greater risks of obesity and being overweight in adults and greater risks of being overweight in children and adolescents; and
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> Whereas, despite this emerging evidence, food companies have opposed efforts across the county to regulate UPFs and the proliferation of food additives, while continuing to market and sell their products without disclosing to consumers the potential harms their products may cause; and
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> Whereas the [2025 USDA Dietary Guidelines Advisory Committee Advisory] report concludes that diets higher in vegetables, fruits, legumes, whole grains, fish/seafood, nuts and unsaturated vegetable oils, and lower in processed meats, sugar-sweetened foods and beverages, refined grains, and saturated fats were associated favorably with health outcomes, such as lower risks of cardiovascular disease, type 2 diabetes, obesity, age-related cognitive decline, and colorectal and breast cancer; and
>
> Whereas the National Institute of Health and the Centers for Disease Control & Prevention identifies the link between health eating and lowering an individual's risk for heart disease, stroke, diabetes, and other chronic health conditions.
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> It is hereby ordered that: No later than April 1, 2025, CDPH shall provide recommendations to the Governor's Office regarding potential action to limit the harms associated with UPFs and food ingredients that pose a health risk to individuals. Such recommendations may include, but are not necessarily limited to, requiring the inclusion of warning labels for certain UPFs."

This bill: This bill sets up a scientific process to identify particularly harmful UPFs, by requiring OEHHA, by July 1, 2026, to adopt a regulation identifying particularly harmful UPFs. Based upon this regulation by OEHHA, AB 1264 requires vendors to schools to stop selling particularly harmful UPFs no later than July 1, 2032.

Many bills have come before this Committee that specifically look the potential harm of certain chemicals to children. Children are considered sensitive receptors and can be caused greater harm than the general population by various chemicals. If this bill is passed and signed by the Governor, California will be the first state in the country to adopt a definition for both a UPF and particularly harmful UPFs, as well as the first state to phase out particularly harmful UPFs in schools.

Technical change: This bill was recently amended in the Assembly Education Committee, and as part of those amendments various dates for compliance were set for schools at July 1, 2035, except for one line. At some point in the future, the author will likely make this technical fix. Specifically, on page 17, line 6, the author may wish to change January 1, 2035, to July 1, 2035, consistent with the rest of the bill.

Arguments in support: According to the Environmental Working Group,

> "The Environmental Working Group (EWG) is pleased to sponsor Assembly Bill 1264, which would establish a first-ever statutory definition for UPFs and direct California's Office of Environmental Health Hazard Assessment (OEHHA) to identify a subcategory of "particularly harmful" UPFs that should be phased out of school meals by 2032.
>
> The consumption of UPFs is linked to serious health harms including cancer, cardiovascular disease, and Type 2 Diabetes. They are designed to be addictive and hyperpalatable, and their growth has coincided with rising rates of obesity. Experts estimate that 14-20% of adults, and 12 to 15% of children, are addicted to UPFs.
>
> These industrially-manufactured foods now account for about 67% of the calories consumed by children in the U.S. California can lead the nation by ensuring that schools promote healthier eating habits and protect students from the harms associated with UPF consumption."

Arguments in opposition: According to a coalition, including the Consumer Brands Association, California Chamber of Commerce, American Chemistry Council and several other associations, writing in an oppose unless amended position:

> "AB 1264 mandates the unscientific and arbitrary categorization and stigmatization of "ultra-processed" foods, yet fails to clearly define which foods fall under this classification. It also passes over the critical fact that food ingredients have distinct purposes of maintaining or improving the 1) safety or freshness, 2) nutritional value, and 3) taste and texture of food. This ambiguity could result in many healthy and natural foods being categorized as "ultraprocessed." This categorization is a "scarlet letter" on many commonly used ingredients in school meal staples and natural products, including corn starch, egg whites, natural colors and products like beet juice or mustard seed. The bill establishes a burdensome and redundant process at OEHHA that would result in certain ingredients being categorized as "particularly harmful ultra processed foods." There is an existing regulatory process under Health and Safety Code 110070 that authorizes the Department of Public Health, "upon its own motion, or upon any interested party," to require the department to review these ingredients and restrict or prohibit the use of any "food additives… or color additives." Why implement an entirely duplicative process at another agency with little expertise in food

additives? If modernizing this section is required, we suggest updating it not creating another burdensome and undefined process at an agency without expertise.

An Alternative Approach – Review School Meal Ingredients for Safety.
The stated intent of the author is to protect school children from unhealthy ingredients and to improve school nutrition. While we believe the Dietary Guidelines for Americans and the USDA school nutrition regulatory development process is adequate and benefits all students with a uniform nutrition policy, we recognize the author's desire to go further for Californians. For policy discussion purposes, we would suggest two part approach: 1) Reviewing California's school nutrition standards and exploring a process to determine if additional changes are warranted. 2) Enhance existing ingredient review process.

While we believe the aforementioned areas of focus should be a priority, we none-the-less offer the following for policy discussion purposes (while maintaining our firm commitment and sufficiency of the FDA's current science and risk based process): California school nutrition substance / ingredient review pursuant to Health and Safety Code Section 110070. That process could include enhanced timelines and consultation other agencies with food safety expertise."

Double-referral: This bill was heard by the Assembly Education Committee on April 9th, where it passed, as amended, by a vote of 8-0.

Related legislation:

1) AB 2316 (Gabriel, Chapter 914, Statutes of 2024). Prohibits, commencing December 31, 2027, food containing six specified food dye additives, (Blue 1; Blue 2; Green 3; Red 40; Yellow 5; and Yellow 6) from being sold to students by school districts, county offices of education, charter schools, and state special schools.

2) AB 418 (Gabriel, Chapter 328, Statutes of 2023). Prohibits a person or entity, commencing January 1, 2027, from manufacturing, selling, delivering, distributing, holding, or offering for sale in commerce a food product for human consumption that contains any of the following substances: brominated vegetable oil (BVO); potassium bromate; propylparaben; or, red dye 3.

3) SB 651 (Wieckowski, 2021). Would have required food that contains synthetic dyes to have the following label: "SAFETY WARNING: Synthetic dyes may cause or worsen behavioral problems in children." This bill was set for hearing in the Senate Health Committee, then the hearing was cancelled at the request of the author, and the bill subsequently died on file.

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy
American Academy of Pediatrics, California
American Diabetes Association

American Nurses Association, California
Breast Cancer Prevention Partners
California Medical Association
California Podiatric Medical Association
California School Employees Association
California State PTA
Center for Environmental Health
Center for Food Safety
Center for Science in The Public Interest
Chef Ann Foundation
Children Now
Cleanearth4kids.org
Conscious Kitchen
Consumer Federation of America
Consumer Reports Advocacy
Crohn's and Colitis Foundation
Eat Real
Educate. Advocate.
Endeavor Health
Environmental Working Group
Food & Water Watch
FoodFight USA
Fresno Unified School District
Friends of The Earth
Healthy Food America
Indivisible Marin
Life Time Foundation
Los Angeles Community College District
Morgan Hill Unified School District
National Consumers League
San Ramon Valley Unified School District Child Nutrition
The Office of Kat Taylor
United Nurses Associations of California/Union of Health Care Professionals

2 Individuals

Opposition

Agricultural Council of California
American Chemistry Council
American Pistachio Growers
Association of California Egg Farmers
California Association of Wheat Growers
California Bean Shippers Association
California Grain & Feed Association
California Pear Growers Association
California Walnut Commission
California Chamber of Commerce
California Grocers Association

California League of Food Producers
California Manufacturers & Technology Association
California Tomato Growers Association
California Walnuts
Consumer Brands Association
Dairy Institute of California
Pacific Egg & Poultry Association
Western Tree Nut Association

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